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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,021	08/18/2003	Wilhelmus J.E.M. Van Den Dungen	P06543US0	3213

34082 7590 10/08/2004

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EXAMINER


PARSLEY, DAVID J

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/643,021	Applicant(s) VAN DEN DUNGEN ET AL. 	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in The Netherlands on 8-22-02. It is noted, however, that applicant has not filed a certified copy of the patent application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

3. Claim 14 is objected to because of the following informalities: in line 8 "derive" should be - -drive- -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the frame rotatable guide means" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-8, 10-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,086,469 to Cody et al.

Referring to claim 1, Cody et al. discloses a transport device for lying transport of elongate meat products which are subject to a processing, comprising at least one endless displacing member – at 52-56, for advancing product carriers – at 66-76, which displacing member is advanced in a frame – at 30, by means of a drive – at 50 and/or 96, in that the endless displacing member is driven at least at two placed apart positions – proximate 50 and 96, and

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tensioning means – at 96A, for the displacing members are placed between the drives – see for example figures 1-12 and column 3 lines 35-45.

Referring to claim 2, Cody et al. discloses the tensioning means are provided with detecting means – at 129, for monitoring the functioning of the tensioning means, and the detecting means are connected to an adjacent drive – 50,96 or 96A, along the displacing member for controlling the drive subject to the functioning of the tensioning means – see for example figures 1-12, column 3 lines 35-45 and column 5 lines 55-60.

Referring to claim 3, Cody et al. discloses the tensioning means – at 96A, are connected to the subsequent drive – at 50, 96 or 96A, in the direction of the displacing member – at 52-56 – see for example figure 1.

Referring to claim 4, Cody et al. discloses that the transport device is provided with a central control – at 128, of the drives, to which central control are connected the detecting means of the tensioning means – see for example column 5 lines 55-60.

Referring to claim 7, Cody et al. discloses the displacing member – at 52-56, is a chain – see figures 1-12.

Referring to claim 8, Cody et al. discloses the transport device comprises at least two parallel running displacing members – at 52-56 as seen in figure 2, wherein the product carriers – at 66-76, are supported by a plurality of displacing members – see for example figures 1-2.

Referring to claim 10, Cody et al. discloses the displacing member is displaceable in the frame rotatable guide means – at 30-46 – see for example figures 1-2.

Referring to claim 11, Cody et al. discloses the displacing member is moved in the frame such that the displacing member contains a plurality of parts – at 52-56, running substantially

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parallel to each other – see figure 2, wherein adjacent parts move in opposite directions – see for example figures 1-2.

Referring to claim 12, Cody et al. discloses the drive is a motor drive – at 50 and/or 96.

Referring to claim 14, Cody et al. discloses a method for compensating length changes in a transport device having tensioning means – at 96A, a detecting means – at 129, a control drive – at 50 and/or 96, and a displacing member – at 52-56, forming part of the transport device for elongate meat products comprising the operating steps of monitoring the functioning of the tensioning means – at 96A, by means of the detecting means – at 129, and controlling a drive – at 50 and/or 96, subject to the monitored functioning of the tensioning means, such that functioning of the tensioning means falls within a determined control range – see for example at 128, and column 3 lines 35-45 and column 5 lines 55-60.

Claims 1, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,102,187 to Stimpfl.

Referring to claim 1, Stimpfl discloses a transport device for lying transport of elongate meat products which are subjected to a processing, comprising, at least one endless displacing member – at 75, for advancing product carriers – at 77, which displacing member is advanced in a frame – see figure 1, by means of a drive – at 78.3, in that the endless displacing member is driven at least at two placed apart positions – at 78.1, 78.2, 78.3, and tensioning means – at 88.1, 88.2, 88.3, for the displacing member are placed between the drives – see for example figures 6-7.

Referring to claim 8, Stimpfl discloses the transport device comprises at least two parallel running displacing members – at 75 – see figure 6, wherein the product carriers – at 77, are supported by a plurality of displacing members – see for example figures 6-7.

Referring to claim 10, Stimpfl discloses the displacing member – at 75, is displaceable in the frame rotatable guide means – see figures 6-7.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpfl in view of U.S. Patent No. 6,029,798 to Miller.

Referring to claim 2, Stimpfl does not disclose the tensioning means are provided with detecting means for monitoring the functioning of the tensioning means, and the detecting means are connected to an adjacent drive along the displacing member for controlling the drive subject to the functioning of the tensioning means. Miller does disclose the tensioning means – at 28, are provided with detecting means – at 22, for monitoring the functioning of the tensioning means, and the detecting means are connected to an adjacent drive – the chain drive (not shown), along the displacing member for controlling the drive subject to the functioning of the tensioning means – see for example column 6. Therefore it would have been obvious to one of ordinary skill

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in the art to take the device of Stimpfl and add the tensioning means of Miller, so as to detect problems in the operation of the endless conveyor.

Referring to claim 3, Stimpfl as modified by Miller, further discloses the tensioning means are connected to the subsequent drive in the direction of transport of the displacing member – see for example figure 1 and column 6 of Miller.

Referring to claim 4, Stimpfl as modified by Miller further discloses the transport device is provided with a central control of the drives, the which central control are connected the detecting means of the tensioning means – see for example figure 1 and column 6 of Miller.

Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cody et al. or Stimpfl as applied to claim 1 above, and further in view of Miller.

Referring to claim 5, Cody et al. and Stimpfl do not disclose the tensioning means comprise a guide displaceable under bias for the displacing member, and the position of the displaceable guide is detected by means of a sensor. Miller does disclose the tensioning means comprise a guide – proximate 24, displaceable under bias for the displacing member – at 14-19, and the position of the displaceable guide is detected by means of a sensor – at 22 – see for example figure 1 and column 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cody et al. or Stimpfl and add the tensioning means of Miller, so as to detect problems in the operation of the endless conveyor.

Referring to claim 13, Cody et al. and Stimpfl do not disclose the transport device is provided with warning means which is coupled to the detecting means which is activated when a determined control limit of the tensioning means is exceeded. Miller does disclose the transport device is provided with warning means – see for example column 6 lines 26-43, which is

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coupled to the detecting means – at 22, which is activated when a determined control limit of the tensioning means is exceeded – see for example column 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cody et al. or Stimpfl and add the warning means of Miller, so as to notify the user of any problems in the function of the transport device.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cody et al. as modified by Miller or Stimpfl as modified by Miller as applied to claim 5 above, and further in view of U.S. Patent No. 6,558,241 to Hergott et al. or U.S. Patent No. 5,685,416 to Bonnet. Cody et al. as modified by Miller and Stimpfl as modified by Miller do not disclose the sensor is an optical sensor. Hergott et al. and Bonnet do disclose using an optical sensor – at 34 of Hergott et al. and – at 140 of Bonnet – see column 2 lines 25-35 of Hergott et al. and column 10 of Bonnet. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cody et al. as modified by Miller or Stimpfl as modified by Miller and add the optical sensor of Hergott et al. or Bonnet, so as to allow for the device to be automatically controlled.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cody et al. or Stimpfl as applied to claim 1 above, and further in view of WO Patent No. 99/13729 to Van De Dungen et al. Cody et al. and Stimpfl do not disclose the product carriers are elongate baskets formed at least partly form a mesh material. Van De Dungen et al., does disclose the product carriers – at 32, are elongate baskets formed at least partly form a mesh material – see for example figures 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cody et al. or Stimpfl and add the carriers being baskets of Van de Dungen, so as to allow for the meat products to be stable and securely held during transport.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpfl as modified by Miller.

Referring to claim 14, Stimpfl discloses a method for compensating length changes in a transport device having a tensioning means – at 88.1,88.2,88.3, a control drive – proximate 78.3, a detecting means – at 87.1,87.2,87.3, and a displacing member – at 75,77, forming part of the transport device for elongate meat products, comprising the operating steps of monitoring the tensioning means and controlling a drive, such that the functioning of the tensioning means falls within a determined control range – see for example figures 6-7. Stimpfl does not disclose monitoring the functioning of the tensioning means by means of the detecting means and controlling a drive subject to the monitored functioning of the tensioning means. Miller does disclose monitoring the functioning of the tensioning means – at 24 and/or 28, by means of the detecting means – at 22, and controlling a drive subject to the monitored functioning of the tensioning means – see for example column 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimpfl and add the tensioning means of Miller, so as to detect problems in the operation of the endless conveyor.

Referring to claim 15, Stimpfl as modified by Miller further discloses when the tensioning means exceeds a control limit, the detecting means generate a signal, on the basis of which the length of the displacing member is adjusted – see for example column 6 of Miller.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cody et al. as applied to claim 14 above, and further in view of Miller. Cody et al. does not disclose when the tensioning means exceeds a control limit, the detecting means generate a signal, on the basis of which the length of the displacing member is adjusted. Miller does disclose when the tensioning

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means exceeds a control limit, the detecting means generate a signal, on the basis of which the length of the displacing member is adjusted – see for example column 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Cody et al. and add the warning means of Miller, so as to notify the user of any problems in the function of the transport device.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to sausage conveying/transporting devices in general:

U.S. Pat. No. 5,058,729 to Shibata – shows tensioning sensor

U.S. Pat. No. 5,997,423 to Kwon – shows tensioning sensor

U.S. Pat. No. 6,050,389 to Iida et al. – shows tensioning sensor

U.S. Pat. No. 6,056,636 to Cody et al. – shows sausage transport device

U.S. Pat. No. 6,135,869 to Schutz – shows sausage transport device

U.S. Pat. No. 6,277,018 to Cody et al. – shows sausage transport device

U.S. Pat. No. 6,685,550 to Houtz et al. – shows tension means on conveyor

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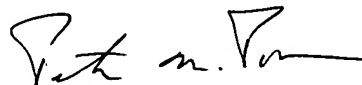
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

9/29/04